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10/709,345	04/29/2004	Scott LaDell Vance	U04.0033.84	3344

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MOORE & VAN ALLEN PLLC
P.O. BOX 13706
Research Triangle Park, NC 27709

EXAMINER	
HUANG, WEN WU	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/709,345	VANCE, SCOTT LADELL	
	Examiner	Art Unit	
	Wen W. Huang	2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10/3/07*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3-5,9-14,22,25-31,33,35-37 and 40-45* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3-5,9-14,22,25-31,33,35-37 and 40-45* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/03/07 has been entered.

Claims 2, 6-8, 15-21, 23, 24, 32, 34, 38, 39 and 46-48 are canceled.

Claims 1, 3-5, 9-14, 22, 25-31, 33, 35-37 and 40-45 are pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

1. Claims 1, 3, 12-14, 22, 25, 26, 31, 33, 36, 37, 40 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holmes (US. 3,586,798; hereinafter "Holmes") in view of Grados (US Pub No. 2004/0243416 A1; hereinafter "Grados")

Regarding **claim 1**, Holmes teaches a device for hands-free push-to-talk functionality (see Holmes, col. 1, lines 25-40), comprising:

a hands-free push-to-talk sensor or switch (see Holmes, col. 2, lines 29-35, fig. 2, switch 20) including at least one of a tilt sensor for sensing tilting of the user's head (see Holmes, col.1, lines 35-36 and fig. 2, col. 2, lines 70-73), wherein the hands-free push-to-talk sensor or switch is operable by at least one of the tilt sensor sensing tilting of the user's head (see Holmes, col.1, lines 35-36 and fig. 2, col. 2, lines 70-73); and

means to control operation of a communication device in response to signals from the push-to-talk sensor or switch (see Holmes, col. 3, lines 1-6).

Holmes is silent to teaching that wherein the tilt sensor for sensing a change in a direction of force due to gravity on the tilt sensor when the tilt sensor is tilted more than a predetermined angled from a zero or normalized angle. However, the claimed limitation is well known in the art as evidenced by Grados.

In the same field of endeavor, Grados teaches a hands-free telephony device (see Grados, para. [0012], fig. 1, headset 100 and the user's head 104) comprising a tilt sensor (see Grados, fig. 2, sensor 112, para. [0015]) for sensing a change in a direction of force due to gravity on the tilt sensor when the tilt sensor is tilted more than a predetermined angled from a zero or normalized angle (see Grados, para. [0017] and [0048]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the teaching of Holmes with the teaching of Grados in order to provide a hands-free headset with improved sensor for sensing the user's head movement and retain full use of both of the user's hands (see Holmes, col. 1, lines 39-42 and Grados, para. [0012]).

Regarding **claim 3**, the combination of Holmes and Grados also teaches the device of claim 1, wherein the push-to-talk sensor or switch comprises the tilt sensor, wherein a transmit mode of the communications device is activated in response to the tilt sensor being tilted more than a predetermined angle from a normalized angle for a predetermined time duration (see Holmes, col. 2, lines 67-75).

Regarding **claim 12**, the combination of Holmes and Grados also teaches the device of claim 1, wherein the communications device is a wireless communications device (see Holmes, col. 1, lines 10-11).

Regarding **claim 13**, the combination of Holmes and Grados also teaches the device of claim 1, wherein the communications device is one of a radio (see Holmes, col. 1, lines 10-11) a cellular phone, a cordless phone, a personal digital assistant and a computer.

Regarding **claim 14**, the combination of Holmes and Grados also teaches the device of claim 1, further comprising a headset (see Grados, fig. 1, headset 100), wherein the push-to-talk sensor or switch is mounted to the headset (see Grados, fig. 2, sensor 112).

Regarding **claim 22**, Holmes teaches a method for hands-free push-to-talk functionality (see Holmes, col. 1, lines 25-40), comprising:

detecting at least one (see Holmes, col. 2, lines 29-35, fig. 2, switch 20) of a predetermined movement of a motion sensor or an accelerometer, a tilt angle caused by the user's head (see Holmes, col.1, lines 35-36 and fig. 2, col. 2, lines 70-73); and

controlling operation of a communications device in response to detecting a presence or absence of at least one of the preset audible signal, the predetermined movement, or air pressure (see Holmes, col. 3, lines 1-6).

Holmes is silent to teaching that wherein the tilt angle caused by a change in a direction of force due to gravity on the tilt sensor when the tilt sensor is tilted more than a predetermined angled from a zero or normalized angle. However, the claimed limitation is well known in the art as evidenced by Grados.

In the same field of endeavor, Grados teaches a method for hands-free telephony device (see Grados, para. [0012], fig. 1, headset 100 and the user's head 104), wherein a tilt angle (see Grados, fig. 2, sensor 112, para. [0015]) caused by a change in a direction of force due to gravity on the tilt sensor when the tilt sensor is tilted more than a predetermined angled from a zero or normalized angle (see Grados, para. [0017] and [0048]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the teaching of Holmes with the teaching of Grados in order to provide a hands-free headset with improved sensor for sensing the

user's head movement and retain full use of both of the user's hands (see Holmes, col. 1, lines 39-42 and Grados, para. [0012]).

Regarding **claim 25**, the combination of Holmes and Grados also teaches the device of claim 22, wherein detecting the tilt angle comprises detecting a tilt sensor being tiled more than a predetermined angle from normalized angle of the direction of force due to gravity (see Holmes, col. 2, lines 67-75)

Regarding **claims 26**, the combination of Holmes and Grados also teaches the device of claim 25, further comprising activating a transmit mode in the communication device in response to detecting the tilt sensor being tilted more than the predetermined angle from the normalized angle for a predetermined time duration (see Holmes, col. 2, lines 67-75).

Regarding **claim 31**, Holmes teaches a method for making a device for hands-free push-to-talk functionality (see Holmes, col. 1, lines 25-40), comprising:

providing a hands-free push-to-talk sensor or switch (see Holmes, col. 2, lines 29-35, fig. 2, switch 20) including at least one of a tilt sensor for sensing tilting of the user's head (see Holmes, col.1, lines 35-36 and fig. 2, col. 2, lines 70-73), wherein the hands-free push-to-talk sensor or switch is operable by at least one of the tilt sensor sensing tilting of the user's head (see Holmes, col.1, lines 35-36 and fig. 2, col. 2, lines 70-73); and

providing means to control operation of a communication device in response to signals from the push-to-talk sensor or switch (see Holmes, col. 3, lines 1-6).

Holmes is silent to teaching that wherein the tilt sensor for sensing a change in a direction of force due to gravity on the tilt sensor when the tilt sensor is tilted more than a predetermined angled from a zero or normalized angle. However, the claimed limitation is well known in the art as evidenced by Grados.

In the same field of endeavor, Grados teaches a method for hands-free telephony device (see Grados, para. [0012], fig. 1, headset 100 and the user's head 104) comprising

providing a tilt sensor (see Grados, fig. 2, sensor 112, para. [0015]) for sensing a change in a direction of force due to gravity on the tilt sensor when the tilt sensor is tilted more than a predetermined angled from a zero or normalized angle (see Grados, para. [0017] and [0048]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the teaching of Holmes with the teaching of Grados in order to provide a hands-free headset with improved sensor for sensing the user's head movement and retain full use of both of the user's hands (see Holmes, col. 1, lines 39-42 and Grados, para. [0012]).

Regarding **claims 33**, the combination of Holmes and Grados also teaches the method of claim 31, wherein providing the push-to-talk sensor or switch comprises:

providing the tilt sensor (see Grados, fig. 1, sensor 112); and

adapting the tilt sensor to cause activation of a transmit mode in the communications device in response to the tile sensor being tilted more than a predetermined angle from a normalized angle of the direction of force due to gravity for a predetermined time duration (see Holmes, col. 2, lines 67-75).

Regarding claim **36**, the combination of Holmes and Grados also teaches the method of claim 31, further comprising:

providing a headset (see Grados, fig. 1, headset 100); and

mounting the push-to-talk sensor or switch in the headset (see Grados, fig. 2, sensor 112).

Regarding **claim 37**, Holmes teaches a computer-readable medium having computer-executable instructions for performing a method, comprising:

detecting at least one (see Holmes, col. 2, lines 29-35, fig. 2, switch 20) of a predetermined movement of a motion sensor or an accelerometer, a tilt angle caused by the user's head (see Holmes, col.1, lines 35-36 and fig. 2, col. 2, lines 70-73); and

controlling operation of a communications device in response to detecting a presence or absence of at least one of the preset audible signal, the predetermined movement, or air pressure (see Holmes, col. 3, lines 1-6).

Holmes is silent to teaching that wherein the tilt angle caused by a change in a direction of force due to gravity on the tilt sensor when the tilt sensor is tilted more than

a predetermined angled from a zero or normalized angle. However, the claimed limitation is well known in the art as evidenced by Grados.

In the same field of endeavor, Grados teaches a method for hands-free telephony device (see Grados, para. [0012], fig. 1, headset 100 and the user's head 104), wherein a tilt angle (see Grados, fig. 2, sensor 112, para. [0015]) caused by a change in a direction of force due to gravity on the tilt sensor when the tilt sensor is tilted more than a predetermined angled from a zero or normalized angle (see Grados, para. [0017] and [0048]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the teaching of Holmes with the teaching of Grados in order to provide a hands-free headset with improved sensor for sensing the user's head movement and retain full use of both of the user's hands (see Holmes, col. 1, lines 39-42 and Grados, para. [0012]).

Regarding **claims 40 and 41**, the dependent claims are interpreted and rejected for the same reasons as set forth above in claims 25 and 26, respectively.

2. Claims 4, 5, 27 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holmes and Grados as applied to claims 3, 25 and 40 above, and further in view of Lenz (US. 5,101,504; hereinafter "Lenz").

Regarding **claims 4**, the combination of Holmes and Grados teaches the device of claim 3.

The combination of Holmes and Grados is silent to teaching that further comprising means for maintaining the communications device in the transmit mode in response to at least one of detecting a voice signal or the tilt sensor being tilted more than the predetermined angle after a selected time delay. However, the claimed limitation is well known in the art as evidenced by Lenz.

In the same field of endeavor, Lenz teaches a device for hands-free push-to-talk functionality comprising means for maintaining the communications device in the transmit mode in response to at least one of detecting a voice signal or the tilt sensor being tilted more than the predetermined angle (see Lenz, col. 3, lines 31-35) after a selected time delay (see Lenz, col. 3, lines 40-43; the "click" noise presents a selected time delay).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the teaching of Holmes and Grados with the teaching of Lenz in order to improve a hands-free push-to-talk device to indicate to the user the operation mode of the communication device (see Lenz, col. 3, lines 40-48).

Regarding **claims 5**, the combination of Holmes and Grados teaches the device of claim 3.

The combination of Holmes and Grados is silent to teaching that further comprising means for switching the communications device to one of a receive mode or

standby mode in response to an absence of at least one of detecting a voice signal or the tilt sensor being tilted more than the predetermined angle after a selected time delay. However, the claimed limitation is well known in the art as evidenced by Lenz.

In the same field of endeavor, Lenz teaches a device for hands-free push-to-talk functionality comprising means for switching the communications device to one of a receive mode or standby mode in response to an absence of at least one of detecting a voice signal or the tilt sensor being tilted more than the predetermined angle (see Lenz, col. 3, lines 31-33) after a selected time delay (see Lenz, col. 3, lines 40-43; the "click" noise presents a selected time delay).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the teaching of Holmes and Grados with the teaching of Lenz in order to improve a hands-free push-to-talk device to indicate to the user the operation mode of the communication device (see Lenz, col. 3, lines 40-48).

Regarding **claim 27**, the combination of Holmes and Grados teaches the device of claim 25.

The combination of Holmes and Grados is silent to teaching that further comprising:

maintaining the communications device in the transmit mode in response to at least one of detecting a voice signal or the tilt sensor being tilted more than the predetermined angle after a selected time delay.

switching the communications device to one of a receive mode or standby mode in response to an absence of at least one of detecting a voice signal or the tilt sensor being tilted more than the predetermined angle after a selected time delay. However, the claimed limitation is well known in the art as evidenced by Lenz.

In the same field of endeavor, Lenz teaches a method for hands-free push-to-talk functionality comprising

maintaining the communications device in the transmit mode in response to at least one of detecting a voice signal or the tilt sensor being tilted more than the predetermined angle (see Lenz, col. 3, lines 31-35) after a selected time delay (see Lenz, col. 3, lines 40-43; the "click" noise presents a selected time delay).

switching the communications device to one of a receive mode or standby mode in response to an absence of at least one of detecting a voice signal or the tilt sensor being tilted more than the predetermined angle (see Lenz, col. 3, lines 31-33) after a selected time delay (see Lenz, col. 3, lines 40-43; the "click" noise presents a selected time delay).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the teaching of Holmes and Grados with the teaching of Lenz in order to improve a hands-free push-to-talk device to indicate to the user the operation mode of the communication device (see Lenz, col. 3, lines 40-48).

Regarding **claim 42**, the dependent claim is interpreted and rejected for the same reasons as set forth above in claim 27, respectively.

3. Claims 9-11, 28-30, 35 and 43-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lenz as applied to claims 1, 22, 31 and 37, respectively above, and further in view of Brening (US. 4,426,733; hereinafter "Brening") and White (US. 6,594,632 B1; hereinafter "White").

Regarding **claim 9**, the combination of Holmes and Grados teaches the device of claim 1.

The combination of Holmes and Grados is silent to teaching that wherein the push-to-talk sensor or switch comprises the air pressure sensitive switch, wherein a transmit mode of the communications device is activated in response to the user blowing on the air pressure sensitive switch with an air pressure greater than a preset air pressure. However, the claimed limitation is well known in the art as evidenced by Brening and White.

In the same field of endeavor, Brening teaches a push-to-talk sensor or switch comprises the air pressure sensitive switch (see Brening, col. 2, lines 18-19; microphone), wherein a transmit mode of the communications device is activated in response to the air pressure sensitive switch (see Brening, col. 2, line 16; "transmit"; and col. 4, line 31).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the teaching of Holmes and Grados with the

teaching of Brening in order to provide improved hands-free operation and provide voice operation for the PTT headset (see Brening, col. 3, lines 21-26).

The combination of Holmes, Grados and Brening is silent to teaching that a transmit mode of the communications device is activated in response to the user blowing on the air pressure sensitive switch with an air pressure greater than a preset air pressure. However, the claimed limitation is well known in the art as evidenced by White.

In the same field of endeavor, White teaches a hands-free push-to-talk communication device (see White, col. 4, lines 5-13) comprising a push-to-talk sensor or switch comprises the air pressure sensitive switch (see White, fig. 2a, microphone 261 and pressure sensor 263, col. 5, lines 1-4), wherein a transmit mode of the communications device is activated in response to the user blowing on the air pressure sensitive switch with an air pressure greater than a preset air pressure (see White, col. 3, lines 20-27 and col. 5, lines 8-9).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the teaching of Holmes, Grados and Brening with the teaching of White in order to allow activating the communication device in a hands-free manner (see White, col. 2, lines 64-67).

Regarding **claim 10**, the combination of Holmes, Grados, Brening and White also teaches the device of claim 9, further comprising means for maintaining the communications device in a transmit mode in response to at least one of detecting a

voice signal or the air pressure greater than the preset air pressure (see Brening, col. 2, line 16; "transmit"; and col. 4, line 31) after a selected time delay (see Brening, col. 5, lines 64-65).

Regarding **claim 11**, the combination of Holmes, Grados, Brening and White also teaches the device of claim 9, further comprising means for switching the communications device to one of a receive mode or standby mode in response to an absence of at least one of detecting a voice signal or the air pressure greater than the preset air pressure after a selected time delay (see Brening, col. 5, lines 39-49; fig. 5; after 35 seconds, step 57 and step 65, without any audible command, the processor returns to standby mode 51).

Regarding **claim 28**, the combination of Holmes and Grados teaches the method of claim 22.

The combination of Holmes and Grados is silent to teaching that further comprising detecting an air pressure greater than a preset air pressure being blown on an air pressure sensitive switch by the user. However, the claimed limitation is well known in the art as evidenced by Brening and White.

In the same field of endeavor, Brening teaches a method for push-to-talk sensor or switch comprising:

detecting an air pressure (see Brening, col. 2, lines 18-19; microphone).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the teaching of Holmes and Grados with the teaching of Brening in order to provide improved hands-free operation and provide voice operation for the PTT headset (see Brening, col. 3, lines 21-26).

The combination of Holmes, Grados and Brening is silent to teaching that wherein detecting an air pressure greater than a preset air pressure being blown on an air pressure sensitive switch by the user. However, the claimed limitation is well known in the art as evidenced by White.

In the same field of endeavor, White teaches method for a hands-free push-to-talk communication device (see White, col. 4, lines 5-13) wherein detecting an air pressure greater than a preset air pressure being blown on an air pressure sensitive switch by the user (see White, fig. 2a, microphone 261 and pressure sensor 263, col. 5, lines 1-4; and col. 3, lines 20-27 and col. 5, lines 8-9).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the teaching of Holmes, Grados and Brening with the teaching of White in order to allow activating the communication device in a hands-free manner (see White, col. 2, lines 64-67).

Regarding **claim 29**, the combination of Holmes, Grados, Brening and White also teaches the method of claim 28, further comprising activating a transmit mode in the communications device in response to detecting the air pressure greater than the

preset air pressure (see Brening, col. 2, line 16; "transmit"; and col. 4, line 31) being blown on the air pressure sensitive switch by the user (see White, col. 5, lines 1-9).

Regarding **claim 30**, the combination of Holmes, Grados, Brening and White also teaches the method of claim 29, further comprising:

maintaining the communications device in the transmit mode in response to at least one of detecting a voice signal or the air pressure greater than the preset air pressure (see Brening, col. 2, line 16; "transmit"; and col. 4, line 31) after a selected time delay (see Brening, col. 5, lines 64-65); and

switching or maintaining the communications device in one of a receive or standby mode in response to an absence of at least one of a voice signal or the air pressure greater than the preset air pressure (see Brening, col. 2, line 16; "receive"; and col. 4, line 31) after the selected time delay (see Brening, col. 5, lines 64-65).

Regarding **claim 35**, the dependent claim is interpreted and rejected for the same reasons as set forth above in claim 9.

Regarding **claims 43-45**, the dependent claims are interpreted and rejected for the same reasons as set forth above in claims 28-30, respectively.

Response to Arguments

Applicant's arguments with respect to claims 1, 22, 31 and 37 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wen W. Huang whose telephone number is (571) 272-7852. The examiner can normally be reached on 10am - 6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew D. Anderson can be reached on (571) 272-4177. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

wwh

1/15/08

MATTHEW ANDERSON
SUPERVISORY PATENT EXAMINER